MYSORE ACT No. XVI OF 1941.

THE MYSORE EUROPEAN BRITISH SUBJECTS REINSTATEMENT, ACT, 1941.

(AS AMENDED BY ACTS V OF 1942 AND I OF 1946.)

(Received the assent of His Highness the Maharaja on the sixteenth day of July 1941.)

WHEREAS the National Service (European British Subjects) Act, 1940, has been enacted and passed into law in British India to make provision relating to service by European British Subjects in the armed Forces of His Majesty the King-Emperor and in civilian employment :

AND WHEREAS it is expedient to make provision for the reinstatement by their employers in [1][State of Mysore except Bellary District] of European British Subjects so called up for service ;

It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Mysore European British Subjects Reinstatement Act, 1941.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,

(i) "tribunal" means a tribunal constituted under section 9 of the Act ; and

(ii) "the Act" means the National Service (European British Subjects) Act, 1940 (Act XVIII of 1940) of the Central Legislature of India.

Reinstatement.

3. [2][(1) It shall be the duty of any employer by whom a person who has been called up under the Act for National Service or by whom a European British Subject who has been called up for service in the Reserve of His Majesty

1. See the Mysore Adaptation of Laws Order, 1958.
2. Renumbered as sub-section (1) by Act V of 1942.

the King-Emperor's Regular Naval, Military, or Air Forces at any time after the 2nd day of September 1939, and before the termination of the present hostilities, or by whom a person subject to the Act who, with the consent of his employers, was between the 2nd day of September 1939, and the coming into force of the Act, granted an emergency commission or enlisted in His Majesty the King-Emperor's armed forces or accepted for training as a cadet at an officers' training school, was employed, to reinstate him in his employment [1][at the termination of his national service or service in the armed forces, or training as a cadet where such training is not followed by service in the armed forces, as the case may be,] in an occupation and under conditions not less favourable to him than those which would have been applicable to him [1][had his employment not been so interrupted.]

[1][Provided that if the employer refuses to reinstate such person, or denies his liability to reinstate such person or if for any reason the reinstatement of such person,] is represented by the employer or be impracticable, he may refer the matter to a tribunal and that tribunal shall, on such reference by the employer or on a reference by an European British Subject under the Act and after consideration pass an order either exempting the employer from the provisions of this section or requiring him to re-employ such person [2] on such terms as it thinks suitable, or requiring him to pay to such person [2] a sum in compensation for failure to re-employ, not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer; and if any employer fails to obey the order of the tribunal, he shall be punishable with a fine which may extend to one thousand rupees; and the Court by which an employer is convicted under this section may order him (if he has not already been so required by the tribunal) to pay the person whom he has failed to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required by the tribunal to be paid or so ordered by the Court to be paid shall be recoverable as if it were a fine imposed by such Court:

1. Substituted by Act V of 1942.
2. The words "or member" omitted by Act V of 1942.

Provided further that in any proceedings under this section, it shall be a defence for an employer to prove that the person formerly employed by him did not apply to the employer for reinstatement within a period of two months [1][from the termination of his national service or service in the armed forces or training as a cadet where such training is not followed by service in the armed forces, as the case may be.]

[2][(2) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up or taken into service, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination of the employment takes place after the issue of a notice under sub-section (1) of section 4 of the Act upon such person.]

[3][(3) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall not be extinguished or affected by the fact that such person is, while serving in the capacity by virtue of such duty was incurred by the employer, temporarily assigned to any employment under the Crown; nor shall any such assignment be deemed to have terminated or interrupted his service in the capacity by virtue of which such duty was incurred by the employer.]

Reservation of certain rights of persons called up for national service.

4. (*a*) When any person is called up under the Act for service in a specified civilian capacity, and his terms of service in such capacity have been laid down by the competent authority subject to certain prescribed conditions for the preservation of any rights which the person called up may have under any provident or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, it shall be the duty of his employer to preserve such rights.

1. Substituted by Act V of 1942.
2. Added by Act V of 1942.
3. Added by Act I of 1946.

(*b*) When any person called up under the Act for service in one of the Forces of His Majesty the King-Emperor has any rights under any provident or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, it shall be the duty of his employer to preserve so long as such person remains in the Forces of His Majesty the King-Emperor [1][or in any other employment under the crown to which he may be temporarily assigned while serving in those Forces] in respect of such fund or scheme such rights as may be prescribed.

Explanation.—In this section, "competent authority" shall carry the same meaning as in the Act, and "prescribed" shall mean prescribed by rules made under this Act or the Act.

Procedure.

5. No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

Service of notices.

6. Any notice to be served on any person for the purposes of this Act may be sent by post addressed to that person at his last known address.

Power to make rules.

7. (1) The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

(2) In making any such rule under this section, the Government may provide that a contravention of the rule shall be punishable with imprisonment for any term not exceeding six months or with fine not exceeding Rs. 1,000 or with both.

Repeal.

8. The Mysore European British Subjects (Reinstatement Emergency) Act, 1941 (VIII of 1941) is hereby repealed.

1. Inserted by Act I of 1946.